

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,

No. CR 16-00440 WHA

v.  
YEVGENIY ALEKSANDROVICH  
NIKULIN,

**ORDER RE TUESDAY'S  
COMPETENCY HEARING**

Defendant.

/

A criminal defendant has the right to be present at each stage of the proceedings.

Defendant Yevgeniy Nikulin has already refused to appear in court once. A September 4 order subsequently granted defendant's motion for a hearing to determine his competency to stand trial. Defendant now refuses to cooperate in his competency evaluation (Dkt. Nos. 60, 63).

Defendant does not have a right to obstruct the orderly prosecution of this case. The undersigned hereby directs the United States Marshals Service to bring defendant to court on Tuesday, October 9 (forcibly or otherwise) unless defendant's counsel presents medical evidence beforehand that defendant's transport to the courthouse will endanger his health.

In similar circumstances, a defendant's refusal to attend proceedings has been deemed a voluntary waiver of his right to be present. *See, e.g., United States v. George*, 127 F.3d 1107 (9th Cir. 1997). Nevertheless, before resorting to waiver, the undersigned directs the Marshals

1 Service to bring defendant to court. Dr. Alexander Grinberg shall also personally appear at the  
2 October 9 hearing.

3

4 **IT IS SO ORDERED.**

5

6 Dated: October 3, 2018.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE